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FORT LAUDERDALE CITY COMMISSION
FEBRUARY 26, 2002**

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**MINUTES OF A REGULAR MEETING
CITY COMMISSION
FORT LAUDERDALE, FLORIDA
February 26, 2002**

Meeting was called to order at 6:00 P.M. by Mayor Naugle on the above date, City Commission Meeting Room.

Roll call showed:

Present: Commissioner Tim Smith
Commissioner Carlton B. Moore
Commissioner Cindi Hutchinson
Commissioner Gloria Katz
Mayor Jim Naugle

Absent: None

Also Present:	City Manager	F. T. Johnson
	City Attorney	Dennis E. Lyles
	City Clerk	Lucy Masliah
	Sergeant At Arms	Sergeant Furbon

Invocation was offered by *Father Kenneth Whittaker*, Saint Jerome Catholic Church.

Pledge of Allegiance to the Flag.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson that the agenda and minutes of the meeting as shown below be approved:

Regular Meeting February 5, 2002

Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle.
NAYS: none.

Note: All items were presented by Mayor Naugle unless otherwise shown, and all those desiring to be heard were heard. Items discussed are identified by the agenda number for reference. Items not on the agenda carry the description "OB" (Other Business).

Presentations (OB)

1. Expressions of Sympathy

Mayor Naugle presented Expressions of Sympathy, on behalf of the City Commission, to the families of *Charles Klement*, *Ted D. Hollar* and *Emridge Jones*.

2. Black History Month

Commissioner Smith read aloud and presented a proclamation and framed poster for *Black History Month* being observed in February. The *Honorable County Commissioner Josephus Eggleston*, the *Honorable Broward County School Board Member Ben Williams*, and *Supervisor of Elections Precinct Coordinator Curtis Mozie* accepted the proclamation and poster commemorating February, 2002 as Black History Month in the City of Fort Lauderdale. Appreciation was expressed for this recognition of the contributions and achievements made by African Americans in this City and nation and identifying the diversity of this community.

Commissioner Moore announced that the "Amistad" would be docked in Fort Lauderdale from March 4 to 14, 2002. He noted that the "Amistad" would also be returning to Fort Lauderdale in October for the opening of the African American Research Library funded by Broward County. Commissioner Moore also invited the County representatives to attend a reception at 5:00 p.m. on Tuesday for the "Amistad." The City Manager added that copies of the proclamation and posters were available in the room for those who were interested.

3. "Ladies, Let's Go Fishing" Days

Commissioner Hutchinson read aloud and presented a proclamation for *"Ladies, Let's Go Fishing" Days* to be observed March 8 to 10, 2002 in the City of Fort Lauderdale. *Betty Bauman*, Founder of "Ladies, Let's Go Fishing" accepted the proclamation on behalf of the organization. She was pleased to promote the spirit of fishing in Fort Lauderdale.

4. 25th Annual Waterway Cleanup

Commissioner Smith announced that the 25th Annual Waterway Cleanup was scheduled for March 2, 2002. Mayor Naugle expressed appreciation to the Marine Industries Association of South Florida for producing this wonderful event.

5. Community Appearance Board – WOW Award for District III

Commissioner Moore presented this month's WOW Award for District III to:

Neal and Carolyn Nevlous
1025 Northwest 15th Avenue
Lauderdale Manors

He displayed a photograph of the home and presented gift certificates from Causeway Lumber, Amar Hardware, and Lennar Homes. Mr. Nevlous expressed appreciation for this recognition.

Consent Agenda (CA)

The following items were listed on the agenda for approval as recommended. The City Manager reviewed each item and observations were made as shown. The following statement was read:

Those matters included under the Consent Agenda are self-explanatory and are not expected to require review or discussion. Items will be enacted by one motion; if discussion on an item is desired by any City Commissioner or member of the public, however, that item may be removed from the Consent Agenda and considered separately.

Event Agreement – Riverwalk Run (M-1)

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with the **Junior League of Fort Lauderdale** to indemnify, protect, and hold harmless the City from any liability in connection with the **Riverwalk Run** to be held **Saturday, March 9, 2002 from 5:30 a.m. to 12:00 noon**; and further authorizing the closing of the following route from 7:00 a.m. to 8:30 a.m.: beginning on South Andrews Avenue and S.W. 2 Street, proceeding south on Andrews Avenue over the Andrews Avenue Bridge, west on S.W. 5 Court, north on S.W. 1 Avenue to South New River Drive, east past the Downtowner Saloon and continuing over the Tunnel and along Rio Vista Boulevard to S.E. 9 Street, east to Ponce de Leon Drive, north to the turnaround and returning south to S.E. 7 Street, east to Cordova Road, south to S.E. 11 Street, west to S.E. 9 Avenue, north to Rio Vista Boulevard, west along South New River Drive, north over the Third Avenue Bridge to S.E. 4 Street, east to S.E. 5 Avenue, south to North New River Drive to finish on the Riverwalk at DDA Plaza.

Recommend: Motion to approve.

Exhibit: Memo No. 02-239 from City Manager.

Event Agreement – 17 Street Causeway Bridge Run (M-2)

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with **Hospice Care of Southeast Florida** to indemnify, protect, and hold harmless the City from any liability in connection with the **17 Street Causeway Bridge Run** to be held **Saturday, April 13, 2002 from 8:00 a.m. to 11:00 a.m.**; and further authorizing the closing of the following route from 8:00 a.m. to 9:30 a.m.: beginning on the west side of the Intracoastal Waterway at the bottom of the eastbound span of the S.E. 17 Street Causeway Bridge and continuing east in the eastbound lanes to State Road A-1-A; proceeding north in the northbound lanes of State Road A-1-A to Holiday Drive, where runners will turn around and use the same route in reverse to finish the run on the west side of the Intracoastal Waterway at the bottom of the eastbound span of the Bridge.

Recommend: Motion to approve.

Exhibit: Memo No. 02-241 from City Manager.

Event Agreement – St. Patrick’s Day Street Dance (Downtowner Saloon, Inc.) (M-3)

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with the **Downtowner Saloon, Inc.** to indemnify, protect, and hold harmless the City from any liability in connection with the **St. Patrick’s Day Street Dance** to be held **Saturday, March 16, 2002 from 3:00 p.m. to 11:00 p.m.; and Sunday, March 17, 2002 from 10:00 a.m. to 6:00 p.m.;** and further authorizing the closing of South New River Drive from east of the Andrews Avenue Bridge to the circle at S.E. 1 Avenue (1/2 block immediately in front of the Downtowner Saloon) from 8:00 a.m. Saturday, March 16, 2002 to 11:00 p.m. Sunday, March 17, 2002.

Recommend: Motion to approve.

Exhibit: Memo No. 02-240 from City Manager.

Event Agreement – St. Patrick’s Day Street Party (Old Town at Riverwalk Merchants Association) (M-4)

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with the **Old Town at Riverwalk Merchants Association** to indemnify, protect, and hold harmless the City from any liability in connection with the **St. Patrick’s Day Street Party** to be held **Sunday, March 17, 2002 from 12:00 noon to 11:00 p.m.;** and further authorizing the closing of the following streets from 6:00 a.m. on Sunday, March 17, 2002 to 5:00 a.m. on Monday, March 18, 2002: S.W. 2 Street from S.W. 2 Avenue to the west side of the Lord Nelson Pub, and S.W. 3 Avenue from the Chili Pepper entrance to S.W. 2 Street.

Recommend: Motion to approve.

Exhibit: Memo No. 02-237 from City Manager.

Event Agreement – St. Patrick’s Day Celebration (Maguire’s Hill 16) (M-5)

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with **Cilldara Inc.** to indemnify, protect, and hold harmless the City from any liability in connection with the **St. Patrick’s Day Celebration** to be held **Saturday, March 16, 2002 from 10:00 a.m. to 12:00 midnight; and Sunday, March 17, 2002 from 10:00 a.m. to 11:00 p.m.** at Maguire’s Hill 16, 535 North Andrews Avenue; and further authorizing the closing of the southbound curb lane of North Andrews Avenue from 5 Street to 6 Street from 12:00 noon each event day, and the alley running parallel to Andrews Avenue at the back of Maguire’s Hill 16 between its property lines only from 12:00 noon Friday, March 15, 2002 to 12:00 noon Monday, March 18, 2002.

Recommend: Motion to approve.

Exhibit: Memo No. 02-238 from City Manager.

Event Agreement – 2002 Children’s Reading Festival (M-6)

A motion authorizing the proper City officials to execute an Insurance, Indemnification, and Hold Harmless Agreement with the **Broward County Library** to indemnify, protect, and hold harmless the City from any liability in connection with “Celebrate Jesus” to be held **Saturday, April 20, 2002 from 10:00 a.m. to 5:00 p.m.; and Sunday, April 21, 2002 from 12:00 noon to 5:00 p.m.** in Stranahan Park; and further authorizing the closing of S.E. 1 Avenue from Broward Boulevard to the south side of S.E. 2 Street before the City’s parking garage exit; S.E. 1 Street from S.E. 1 Avenue to S.E. 2 Avenue, and S.E. 2 Street from Andrews Avenue to the east side of S.E. 1 Avenue, from 6:00 p.m. Friday, April 19, 2002 to 8:00 p.m. Sunday, April 21, 2002.

Recommend: Motion to approve.

Exhibit: Memo No. 02-236 from City Manager.

Management and Confidential Employee Health Benefits Schedule (M-7)

A motion approving the revised Management and Confidential Employee Health Benefits Schedule. (Also see Item I-E on the Conference Agenda)

Recommend: Motion to approve.

Exhibit: Memo No. 02-310 from City Manager.

Transfer from Law Enforcement Trust Fund (LETf) – MAD DADS Program (M-8)

A motion authorizing the transfer of \$15,000 from LETf Fund 107 to Account 129 (Miscellaneous Grants) in support of the MAD DADS Program.

Recommend: Motion to approve.

Exhibit: Memo No. 02-154 from City Manager.

**Grant and Interagency Agreement –
Florida Department of Juvenile Justice
Civil Citation Court and The Starting Place – Juvenile Diversion Program (M-9)**

A motion authorizing the proper City officials to accept a grant from the Florida Department of Juvenile Justice in the amount of \$74,980 retroactive to January 7, 2002; and further authorizing the proper City officials to execute an interagency agreement with The Starting Place and execute all documents necessary to accept and expend such grant funds.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 02-52 from City Manager.

Agreement – Town of Lauderdale-By-The-Sea – Wastewater Billing Services (M-10)

A motion authorizing the proper City officials to execute a ten-year agreement with the Town of Lauderdale-By-The-Sea for the City to provide wastewater billing services.

Recommend: Motion to approve.

Exhibit: Memo No. 02-188 from City Manager.

Agreement – Florida Atlantic University Small Business Development Center (M-11)

A motion authorizing the proper City officials to execute an agreement with Florida Atlantic University's (FAU) Small Business Development Center to provide monthly business workshops and small business counselor services on behalf of the City.

Recommend: Motion to approve.

Exhibit: Memo No. 02-41 from City Manager.

Application for Water Taxi License – Royal Boat Company, Inc. (M-12)

A motion approving an application from Royal Boat Company, Inc. for a license to conduct a water taxi operation in the City, in accordance with Section 8-146.1.

Recommend: Motion to approve.

Exhibit: Memo No. 02-274 from City Manager; and
Memo No. 02-55 from City Manager.

**First Amendment to Agreement –
Broward County – Installation of Multi-Space Meters
and Revision of Revenue Sharing Formula for County Lot II (80 S.W. 1 Avenue) (M-13)**

A motion authorizing the proper City officials to execute a First Amendment to Agreement with Broward County to install two multi-space meters in the County Lot II parking lot located at 80 S.W. 1 Avenue, revise the revenue sharing formula, and extend the term of the agreement for five years.

Recommend: Motion to approve.

Exhibit: Memo No. 02-192 from City Manager.

**Create Engineering Design Manager Position for the
Water and Wastewater Master Plan Capital Improvement Program (CIP) (M-14)**

A motion authorizing the creation of an Engineering Design Manager position to be responsible for managing the City's in-house design and construction management efforts under the Water and Wastewater Master Plan CIP.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 02-14 from City Manager.

**Transfer from General Fund Contingencies –
Neighborhoods, USA (NUSA) Annual Conference -
Engineering/Architectural Bureau “Neighborhood Projects” Display (M-15)**

A motion authorizing the transfer of \$9,850 from General Fund Contingencies to the Public Services Department Account PBS040203 (Special Projects, Account 4104) to fund the Engineering/Architectural Bureau “Neighborhood Projects” display at the annual NUSA Conference to be held May 22-25, 2002 in Houston, Texas.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 02-213 from City Manager.

**Change Order No. 2 – Tenex Enterprises, Inc. –
Project 10100 – Gateway Merchants Association Improvements (M-16)**

A motion authorizing the proper City officials to execute Change Order No. 2 with Tenex Enterprises, Inc. in the amount of \$10,668.67 for additional work required with the Gateway Merchants Association improvements.

Recommend: Motion to approve.

Exhibit: Memo No. 02-215 from City Manager.

**Amendment to Task Order No. 1 – Keith and Schnars, P.A.
(Professional General Civil Engineering Consultant Services) –
Project 10377 – Miami Road Area Sanitary Sewer Design Services (M-17)**

A motion authorizing the proper City officials to execute an amendment to Task Order No. 1 with Keith and Schnars, P.A. in the amount of \$17,420 for design and construction management services associated with the replacement of undersized water mains in the Miami Road area.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 02-109 from City Manager.

**Amendment to Task Order – Keith and Schnars, P.A.
(Professional General Civil Engineering Consultant
Services) – Project 10372 – One Stop Shop at Lincoln Park (M-18)**

A motion authorizing the proper City officials to execute an amendment to the Task Order with Keith and Schnars, P.A. in the amount of \$19,860 for additional work related to the One Stop Shop at Lincoln Park.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 02-214 from City Manager.

**Contract Award – Frank Hill Construction, Inc. –
Project 10215 – Parking Administration Building Interior Office Renovation (M-19)**

A motion authorizing the proper City officials to execute an agreement with Frank Hill Construction, Inc. in the amount of \$17,780 for the Parking Administration Building interior office renovation project.

Funds: See Bid Tab

Recommend: Motion to approve.

Exhibit: Memo No. 02-210 from City Manager.

**Contract Extension – Eastcoast Testing & Engineering, Inc. –
Project 10193 – Annual (2000) Engineering Testing Lab Contract (M-20)**

A motion authorizing the proper City officials to execute a one-year extension to agreement with Eastcoast Testing & Engineering, Inc. for the Annual Engineering Testing Lab contract.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 02-108 from City Manager.

**Contract Renewal – Water Company of America –
Review of Water, Sewer, Stormwater Management and Solid Waste Accounts (M-21)**

A motion authorizing the proper City officials to execute a one-year renewal to the agreement with Water Company of America to review the City's water, sewer, stormwater management and solid waste accounts.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 02-184 from City Manager.

**Contract Extension – JJD Contracting, Inc. – Project 10262-A -
Annual (2002) Contract for Directional Drilling of Water Service Lines (M-22)**

A motion authorizing the proper City officials to execute a one-year extension to the agreement with JJD Contracting, Inc. in the approximate amount of \$226,230.50 for the Annual (2002) Directional Drilling of Water Services Line contract.

Funds: See Memo

Recommend: Motion to approve.

Exhibit: Memo No. 02-112 from City Manager.

PURCHASING AGENDA

Bid 522-8575 – Maintenance Computer Hardware

(Pur-1)

A two-year contract for on-site maintenance of computer hardware is being presented for approval by the Administrative Services, Information Technology Division.

Recommended Award: BLM Technologies, Inc.
Fort Lauderdale, FL
Amount: \$ 17,000.00 (estimated annual)
Bids Solicited/Rec'd: 82/21 with 3 no bids
Exhibits: Memorandum No. 02-177 from City Manager

The Procurement and Materials Management Division recommends award to the low responsive and responsible bidder.

Proprietary – Replacement Electronic Parking Meters

(Pur-2)

An agreement to purchase replacement electronic parking meters and housings is being presented for approval by the Administrative Services, Parking Services Division.

Recommended Award: Duncan Industries Parking & Control Systems
Harrison, AR
Amount: \$ 34,744.40
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 02-143 from City Manager

The Procurement and Materials Management Division has reviewed this item and supports the recommendation to approve the proprietary purchase.

672-7489 – Change Order/Small Water Meters and Parts

(Pur-3)

A change order to increase encumbrance for small water meters and component parts is being presented for approval by the Public Services Department.

Recommended Award: Badger Meter, Inc.
Milwaukee, WI
Amount: \$ 225,000.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 02-150 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to approve the change order.

622-8619 – Replacement of Private Water Services**(Pur-4)**

An agreement to purchase services for the replacement of private water services is being presented for approval by the Public Services Department.

Recommended Award:	Doc's Plumbing, Inc. Fort Lauderdale, FL
Amount:	\$ 11,590.00
Bids Solicited/Rec'd:	7/1 with 1 no bid
Exhibits:	Memorandum No. 02-234 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to award to the single responsive and responsible bidder.

Proprietary – GIS Training**(Pur-5)**

An agreement with an educational facility (FAU) for GIS training course development and classes is being presented for approval by the Administrative Services, Information Technology Division.

Recommended Award:	Florida Atlantic University (FAU) Boca Raton, FL
Amount:	\$ 28,800.00
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 02-230 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to approve the proprietary purchase.

Contract – Self-Funded Health Benefit Plan Management**(Pur-6)**

A three-year contract for consulting service for assistance with the City's self-funded health benefit plan management is being presented for approval by the Finance, Risk Management Division.

Recommended Award:	Rhodes Insurance Group Fort Lauderdale, FL
Amount:	\$ 48,000.00 (annual total)
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 02-244 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to award from City of Lauderhill contract.

Proprietary – Organ Transplant Services**(Pur-7)**

A three-year agreement for organ transplant services is being presented for approval by the Finance, Risk Management Division.

Recommended Award:	United Resources Network Minneapolis, MN
Amount:	Per Service
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 02-246 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to approve the proprietary purchase.

Proprietary – Maintenance Driving Simulator**(Pur-8)**

A three-year maintenance agreement for a driving simulator is being presented for approval by the Police Department.

Recommended Award:	GE Capital I-SIM Salt Lake City, UT
Amount:	\$ 20,500.00 (three year total)
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 02-231 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to approve the proprietary purchase.

Claims Administration Consulting Services**(Pur-9)**

A one-year agreement for claims administration consulting services for the City's self-insured health plan is being presented for approval by the Finance, Risk Management Division.

Recommended Award:	Rachlin Cohen & Holtz Healthcare Advisors Consulting Division Fort Lauderdale, FL
Amount:	\$ 60,000.00 (estimated not to exceed)
Bids Solicited/Rec'd:	N/A
Exhibits:	Memorandum No. 02-245 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to approve a one-year agreement as provided for in 2-199(7) of the Purchasing Code.

Bid 222-8617 - (48) Mobile Printers for Police Vehicles**(Pur-10)**

An agreement to purchase (48) mobile printers for Police vehicles is being presented for approval by the Police Department.

Recommended Award: Tanner Marketing Group
Palm Harbor, FL
Amount: \$ 57,616.80
Bids Solicited/Rec'd: 40/5 with 1 no bid
Exhibits: Memorandum No. 02-195 from City Manager

The Procurement and Materials Management Division recommends award to the low responsive and responsible bidder.

Proprietary/Broward County - Writing Software and VRM/GPS**(Pur-11)**

An agreement to purchase report writing software and VRM/GPS with computer mount is being presented for approval by the Police Department.

Recommended Award: HTE-USC, Inc.
Fort Lauderdale, FL
Motorola, Inc.
Fort Lauderdale, FL
Amount: \$ 482,667.00
Bids Solicited/Rec'd: N/A
Exhibits: Memorandum No. 02-253 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to approve the proprietary and Broward County contract purchase with transfer of \$33,522 from Law Enforcement Trust Fund (Fund 107) to Computer Equipment (POL020602-6404) and \$203,260 from the Police Technology Fund (P00456.326) to GMORE98XX (CopsMore Grant).

RFP 322-8620 Redistricting Consultant**(Pur-12)**

An agreement to purchase the services of a consultant to assist in the redistricting process for the City is being presented for approval by the Community and Economic Development, Planning Division.

Recommended Award: Kurt Spitzer & Associates, Inc.
Tallahassee, FL
Amount: \$ 80,000.00
Bids Solicited/Rec'd: 17/4
Exhibits: Memorandum No. 02-271 from City Manager

The Procurement and Materials Management Division reviewed this item and supports the recommendation to award to the first ranked proposer with the transfer of \$80,000 from General Fund Contingency (FD001-9950) to Other Professional Services (PED020101-3199).

Motion made by Commissioner Smith and seconded by Commissioner Moore that Consent Agenda Item Nos. M-7, M-12, M-13, M-15, M-16, M-18, Pur. 6, Pur. 7, Pur. 9, and Pur. 12 be deleted from the Consent Agenda and considered separately, and that all remaining Consent Agenda Items be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

Management and Confidential Employee Health Benefits Schedule (M-7)

Commissioner Katz thought higher deductibles should curtail excessive use in the future and saw it as a good first step. She felt the sooner this continued, the better off everyone would be. Commissioner Hutchinson asked when the Commission would hear about the deduction employees would have to pay to address the deficit. Mr. Damon Adams, Director of Finance, replied that the information would be presented sometime between now and the beginning of the fiscal year in October.

Motion made by Commissioner Smith and seconded by Commissioner Katz that Consent Agenda Item No. M-7 be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Application for Water Taxi License – Royal Boat Company, Inc. (M-12)

Mayor Naugle noted that the application for the water taxi license and the insurance policy listed vessels other than those listed on the registration.

At 6:50 P.M., Commissioner Moore left the meeting.

Mr. Bob Ward, representing the applicant, stated that the documents were confusing because one of the vessels had been originally constructed in the 1970s, rebuilt in the 1980s and rebuilt again in the 1990s. Mayor Naugle pointed out that the insurance company referred to a vessel of a different brand and a different age. Mr. Ward assured him that the vessels that would be used were insured. The City Attorney said that he would like an opportunity to confirm the insurance coverage.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to approve Consent Agenda Item No. M-12, subject to verification of insurance coverage. Roll call showed: YEAS: Commissioners Katz, Smith, Hutchinson, and Mayor Naugle. NAYS: none.

**First Amendment to Agreement – Broward County –
Installation of Multi-Space Meters and Revision of
Revenue Sharing Formula for County Lot II (80 S.W. 1st Avenue) (M-13)**

Commissioner Katz understood the County wanted to increase the meter rate and change the split so the City would receive less revenue, and the County wanted the City to pay for the meters.

Mr. Doug Gottshall, Parking and Central Services Manager, explained that the County had originally suggested that the City stop managing this lot. The City had countered with a proposal to meter the lot with the multi-space meters. He stated that the County was paying half the cost of the meters, which was not typical, and the rates would vary on weekends and during the evenings so the County could make more money. Mr. Gottshall said that the County had indicated the City would receive no less revenue than it was currently receiving from the lot. Commissioner Katz understood that, but the County would be raising the price to obtain more revenue, and the City came out on the "short end."

Mr. Gottshall reiterated that the City would receive the same amount of revenue as it was receiving now, and it would have the capability of making more money because of the increased rates. He stated that this was in an area that saw a lot of usage at night and on weekends due to its proximity to Riverwalk, and he believed this was an opportunity for the City to increase revenues.

Mayor Naugle inquired about the new prices. Mr. Gottshall replied that the cost would be \$1 per hour from 6:00 a.m. to 5:00 p.m., Monday through Thursday. On Fridays and Saturdays from 6:00 a.m. to 5:00 p.m., the rate would be \$1 an hour. After 5:00 p.m., there would be a \$7 flat rate to use the lot.

Commissioner Katz suggested a 50/50 split. Mr. Gottshall thought this had been a good arrangement to maintain the existing revenue stream because the County had been considering a private operator.

At 6:54 p.m., Commissioner Moore returned to the meeting.

Mayor Naugle asked how the \$7 flat rate would be collected, and Mr. Gottshall advised that the new machine would provide a receipt for placement in the vehicle. Mayor Naugle wondered who would pay \$7 to park there at night. Mr. Gottshall said that his experience had been that a \$7 fee would not deter many people from parking in this lot on the weekends and in the evenings.

Mayor Naugle did not support this. He thought \$7 was an "outrageous rip off," and people would be mad at the City because it issued the tickets. Commissioner Smith suggested the County be requested to allow the 50% City resident discount to be applied to the meters. He advised he would support the item with that consideration. Mayor Naugle did not think the County would be willing to do that since it owned the lot.

Commissioner Moore thought this would be an "on demand" operation. He noted that a \$10 parking fee for an event was not unusual in South Florida and almost the norm. Commissioner Moore said he would appreciate a City resident discount, but he did not think the \$7 fee was outlandish.

Motion made by Commissioner Smith and seconded by Commissioner Moore to approve Consent Agenda Item No. M-13 with application of a 50% City resident discount. Roll call showed: YEAS: Commissioners Smith and Moore. NAYS: Commissioners Katz, Hutchinson, and Mayor Naugle.

**Transfer from General Fund Contingencies – Neighborhoods, USA
(NUSA) Annual Conference – Engineering/Architectural Bureau
“Neighborhood Projects” Display (M-15)**

Commissioner Katz did not support this at this time because it seemed as if the City were spending money as if it were “going out of style.” She said she could support one attendee, but she did not support spending \$10,000 to send three people to Texas for a “show and tell.”

Commissioner Moore recalled that the City used to be very active in something called the “All American City Awards.” He felt it was very important that Fort Lauderdale, as a community, demonstrate its successes, and this was an opportunity for individuals who had shown a sincere love for this community by being so active. Commissioner Moore did not think the City would have the quality community it enjoyed without the active involvement of the civic associations and their members.

Commissioner Moore thought that seeing how other communities handled challenges was very important, and this Conference provided leadership training to bring similar projects back to this community. Commissioner Katz understood the value of this Conference, and she would not object if it were being held in Florida. However, it was an expensive trip with airline tickets, hotels, registration and meals, when it was held in another State. She suggested that one person be sent to represent the City.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that Consent Agenda Item No. M-15 be approved as recommended. Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: Commissioner Katz.

**Change Order No. 2- Tenex Enterprises, Inc. –
Project 10100 – Gateway Merchants Associations Improvements (M-16)**

Commissioner Hutchinson believed that ordinarily if there was a run-over, the group found the funds. She wondered why the City was paying for this change order. Mr. Hector Castro, City Engineer, explained that much of this final adjusting change order involved stormwater system repairs that were uncovered once the sidewalks had been cut. He stated that this was an older part of the City. Mr. Castro said that Item 7 involved some additional curbing requested by the Merchants Association at a cost of about \$3,000, and the group proposed to fund half that cost.

Motion made by Commissioner Moore and seconded by Commissioner Smith that Consent Agenda Item No. M-16 be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

**Amendment to Task Order – Keith and Schnars, P.A. (Professional
General Civil Engineering Consultant Services) – Project 10372 –
One Stop Shop at Lincoln Park (M-18)**

The City Manager wished to clarify that the \$19,860 amount listed in the agenda was not correct, but the amount of \$23,560 listed in the back-up memorandum was correct.

Motion made by Commissioner Smith and seconded by Commissioner Moore to approve Consent Agenda Item No. M-18 in the amount of \$23,560 as clarified. Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: Commissioner Katz.

Contract – Self-Funded Health Benefit Plan Management (Pur. 6)

Mayor Naugle understood this would be a 120-day contract as discussed earlier today. Commissioner Moore did not think it was a good idea to “piggy-back” on contracts for professional services.

Motion made by Commissioner Smith and seconded by Commissioner Moore to approve Consent Agenda Pur. 6 as amended to reflect a 120-day contract. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Proprietary – Organ Transplant Services (Pur. 7)

Commissioner Katz wondered who made the decisions about the transplants that would be funded. Mr. Scott Denham, Risk Manager, explained that all medical coverages were defined in plan documents, which set forth the detailed benefits. He stated that the chart referenced by Commissioner Katz was a summary plan document, and it contained about 1/20 of the language contained in the full plan document. He advised that medical decisions were left to the attending physicians. Commissioner Katz wanted to ensure there was a “gatekeeper” to make sure transplants were justified, and Mr. Denham assured her that would be the case.

Motion made by Commissioner Moore and seconded by Commissioner Smith that Consent Agenda Item No. Pur. 7 be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

Claims Administration Consulting Services (Pur. 9)

Commissioner Katz inquired about the responsibility of the Rhodes Insurance Group as compared to Rachlin Cohen & Holtz Healthcare. It seemed as if there were three different groups checking on each other, and she felt the issue should be clarified for employees and the Commission. Mr. Kirk Buffington, Purchasing Manager, understood Rachlin Cohen would be acting as an auditor, while the Rhodes Group was a consultant.

At 7:10 P.M., Commissioner Smith left the meeting.

Mr. Denham explained that the primary difference between the two companies was that Rhodes Insurance had expertise in benefits consulting, examination of plan design, comparisons within the marketplace, analysis of data, etc., while Rachlin Cohen was an auditing firm with a specialty division called health care advisors. That team of individuals had the necessary expertise to perform the kind of in-depth analysis of the processes used to administer the plan, such as how the software for claims processing was set up, workflow analysis, and analytical reviews of any error rate. He said that if there had been any losses associated with any error rate, this firm would also assist the City in analyzing the performance of the third party firm to ensure expected value.

At 7:13 P.M., Commissioner Smith returned to the meeting.

Commissioner Katz was unclear on who was responsible for screening the appropriateness of what was being billed. Mr. Denham stated that the third party administration firm would be responsible for the initial review of every claim to ensure appropriate, accurately adjudicated, and properly paid. He advised that there was then an in-house review, and then Rachlin Cohen analyzed all of the data in a more detailed manner. *Mr. Robert Moody*, of Rachlin Cohen, believed his firm would be responsible to ensure the third party administration firm was screening for appropriate billing, coding, etc. Commissioner Katz understood him to be indicating Rachlin Cohen could be held responsible. Mr. Moody agreed that was correct and, if something was discovered that was inappropriate, the Risk Manager would be informed. Commissioner Katz said she just wanted to make sure someone would be doing more than just paying bills.

Commissioner Moore asked if the City had already started to utilize the services of Rachlin Cohen. Mr. Denham advised that the firm had been engaged for a temporary assignment and had provided a report, but these resources were necessary on a long-term basis. Commissioner Moore wondered why this need was not being addressed through the competitive process. Mr. Denham felt these resources were needed immediately in order to confirm, within 60 to 90 days, that this third party administration firm would do what the City was asking. Commissioner Moore asked how long the \$60,000 would last, and Mr. Denham replied that it would provide services for a year.

Commissioner Moore did not support this item or selecting professionals in this manner. He preferred that the City issue a Request for Proposals (RFP). He thought that since the emergency had already been addressed, an RFP could be released for a plan administrator within the next 45 to 60 days. Mr. Denham agreed this was not the method of choice, but it was the method of need.

Commissioner Smith reiterated his concerns about the City being self-insured. He suggested a month-to-month contract for this consultant. Mayor Naugle suggested an evaluation after 120 days. Commissioner Smith agreed he wanted to closely scrutinize this issue and reevaluate this in 120 days. At that time, maybe it would be time to send out an RFP. He hoped everyone would pay extreme attention to this issue because the Commission could not allow it to spiral out of control.

Mr. Denham said that this approach was a far more cost effective method of obtaining the necessary expertise than to have a full-time equivalent employee. He stated that there was one such employee now to handle health care benefits in the Risk Management Division.

Motion made by Commissioner Smith to approve Consent Agenda Item No. Pur. 9 with the understanding that it would be on a month-to-month basis, and it would be reevaluated in 120 days. There was no second.

Commissioner Moore did not object to a contract on a month-to-month basis, but he wanted an RFP released within the next 30 days and selection of a claims administration consultant 30 days thereafter. He noted that this firm could respond to the RFP, but these were public dollars, and he felt contracts for professional services should be open for competition. Commissioner Smith supported the idea.

Commissioner Katz wondered why the RFP had to go out in 30 days. She believed there was still an emergency that had to be addressed now. Commissioner Moore just wanted competitive bids, and Rachlin Cohen would be providing services on a month-to-month basis in the meantime. Commissioner Smith asked if 30 days was a reasonable timeframe for release of an RFP. Mr. Buffington thought 45 days might be more reasonable. Mayor Naugle thought it would take more than 45 days. Commissioner Moore said he could live with 60 days. The City Manager understood Commissioner Moore was referring to an RFP for a claims administration consultant.

Mayor Naugle asked if Rachlin Cohen had resolved its differences with the City of Hollywood. He believed a rate study had been performed with respect to that community's water and sewer fund, and there had been some miscalculations. Mr. Moody said he did not know anything about that, but he would investigate and provide information. Mr. Denham noted that the group involved in this contract was the firm's health care advisory group, and it was only one part of a large CPA firm.

Motion made by Commissioner Moore and seconded by Commissioner Smith to approve Consent Agenda Item No. Pur. 9 on a month-to-month basis with a reevaluation to be conducted in 120 days, and directing staff to prepare seek a claims administration consultant through the RFP process within 60 days. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson, and Mayor Naugle. NAYS: none.

RFP 322-8620 – Redistricting Consultant (Pur. 12)

Mr. Percy Johnson said he had served on the Evaluation Committee, and he had not voted in favor of awarding this contract to Kurt Spitzer & Associates, Inc. for two reasons. He felt redistricting should be a fair process, and Kurt Spitzer had been given an opportunity not afforded to the other participants in the process. He explained that Kurt Spitzer's proposal had quoted a price of \$5 an hour for computer time and, when an ex-officio member of the committee had inquired about the total cost for computer time, he had quoted a price of \$630, which was a change.

Mr. Johnson stated that Kurt Spitzer was not a local firm, and he felt strongly that a local consultant team should handle redistricting for the City. He also did not think the City needed to start this process with questions "looming." Mr. Johnson felt the Commission should consider the top two consultants, including Shutts & Bowen.

Mr. Alex Heckler, Attorney with Steel, Hector & Davis, advised that this firm had been ranked third by the selection committee in this process. He described the background of the team that had made a presentation to the selection committee, and they had been asked numerous questions about price. Mr. Heckler stated that the price had been provided in a range. He commended the City on its RFP process, and he advised that this firm had worked in communities with traits similar to those in Fort Lauderdale, such as having very diverse minority representation.

Mr. Heckler stated that Section 7.12 of the Code discussed the redistricting required. He advised that it involved legal matters, and he felt many issues remained unresolved that had been discussed during the selection process. He explained that no one from the City Attorney's Office had been present, although this was a legal process, and one issue involved conflicts. Mr. Heckler stated that some of the proposers had conflicts ranging from representing a party that was suing the City to representing different counties involved in the redistricting process. He believed one proposer also represented the NAACP, and other proposers lobbied before the City Commission on a regular basis.

Mr. Heckler said that Kurt Spitzer, an out of town firm, had quoted a price of \$59,000, and Steel Hector had quoted a price of \$40,000 to \$60,000. He stated that questions had been raised about its responsiveness because it had been presented in a range format, but there had not been a City Attorney present to make a determination in that regard. Mr. Heckler explained that his firm was billable by the hour, but the proposal had been capped at \$60,000, and the selection committee had found the proposal responsive. He stated that this firm's price had only been \$200 more than the next bidder, but the back-up memorandum indicated the out of town firm would also charge over \$11,000 for travel expenses, and he did not know if that had been considered.

Mr. Heckler suggested that the Commission afford all four of the proposers an opportunity to make presentations to this body, as was done in other municipalities. In the alternative, he was not adverse to going back to the selection committee in an expedited fashion to clarify the issues and ensure a fair process.

Ms. Margery Anderson, member of the selection committee, was a little surprised because all these issues had been discussed, particularly the matter of whether or not there should have been representation from the City Attorney's Office. She stated that the committee had determined that was not necessary, and cost was not the only factor. Ms. Anderson advised that the committee had discussed qualifications and the need for a balance of service, and the Commission had received a written report about how the recommendation had been reached. She had thought the committee had reached a consensus on the recommendation, but Mr. Johnson seemed to have indicated otherwise.

Mr. Sidney Calloway, of Shutts & Bowen, introduced the members of the consulting team who were present. He said they were here because he believed the selection committee's consensus had been that Shutts & Bowen was ranked first and Kurt Spitzer was ranked second. Several of the committee members had indicated that either would be acceptable, and one or two had some concerns about the team knowing too many of the City Commissioners and knowing too much about local politics. Mr. Calloway believed that was an advantage. He stated that this team did know the "players" in this community, and the team members' offices were all located within minutes of City Hall. They all worked in Fort Lauderdale, and there was no question as to their competence.

Mr. Calloway believed cost had been the primary issue faced by the selection committee. He had tried to address the issue of cost in the response and in the presentation. Mr. Calloway explained that the RFP identified a range of tasks that would have to be completed, and he thought it was important to the City that there be a process that involved the community and was transparent. He had included a team member to ensure there would be a recognized liaison between the City and the public at large, and there was a cost associated with providing that service. Mr. Calloway pointed out that none of the other proposers had included a community component, while his price had included that cost.

Mr. Calloway stated that based on his knowledge and expertise in redistricting, his team could develop a program that achieved the goal for less than the amount proposed. He did not think this effort should cost the City more than \$55,000 to do this project, and his team was prepared to do it. Mr. Calloway added that there was no more ethnically diverse team than this one, and he hoped the Commission would agree it was in the best interests of the City to keep its money within Fort Lauderdale, particularly when there was no issue as to competence.

Mr. Ed Curtis, Chair of the selection committee, said that he had been under the impression that the committee had reached consensus after hearing all the presentations. He described the process that had been used to rank the proposals. Commissioner Smith asked if the issue of being local had been discussed. Mr. Curtis replied that it had been discussed, and the issue had been part of the ranking. He stated that some members felt a local company would be an advantage, while others had not.

Commissioner Moore felt the process had been competitive, and he had no problem with that aspect of the matter. His concern was that all the proposals were too high. He felt the proposals should be rejected and new proposals sought. Commissioner Smith wondered if the proposers could be asked to bring back "best and final offers," and he asked Mr. Curtis if he thought that would affect the conclusion. Mr. Curtis replied that it would affect the pricing issue, which had been 20% of the overall rating. He believed the committee would be willing to meet again if that was the Commission's desire. Commissioner Moore felt that the overall price could be lower in light of today's technology.

Commissioner Katz did not feel cost should be the primary criteria. She pointed out that this was a very important project, which required a team with experience and expertise in working with the Census. She felt the team should be non-partisan and objective, and pricing was just a small aspect. Commissioner Katz did not want to make this decision on the basis of which team was willing to lower its price the most. She said that price had been considered by the committee, as had the other criteria, and she did not want to start bargaining with the proposers.

Commissioner Hutchinson noted that the Commission had wanted a citizen-based process and had formed a committee of citizens to review the responses, and she had confidence that its members had done the job they were appointed to do. She felt price was just a "smokescreen" at this point, and she believed the committee had recommended a firm with the best background and expertise. Commissioner Hutchinson said she would have liked to review the score sheets themselves, but she had confidence in the selection committee and endorsed its recommendation.

Commissioner Moore inquired as to staff's estimate of the cost of these services. Mr. Paul Costanzo, Deputy City Planner, advised that the estimate had been \$60,000 to \$70,000. Mr. Buffington said that the estimated approval amount provided to the Commission had been \$80,000, but that was contingent upon how many maps were presented by outside community groups because they would have to be reviewed as well.

Mr. Buffington stated that the issue of incidental expenses, specifically travel, had also been discussed at a pre-proposal conference. It had been indicated that travel would be treated as an incidental expense, reimbursable at cost only. He advised that Kurt Spitzer had clearly disclosed that travel expenses were not included in the proposal, and they had been added to the price only to give the Commission a fair idea of the project cost. That was also true of the \$5 per hour computer cost.

Commissioner Moore said his primary concern now was price. He agreed that a very open process was desired with a great deal of community input, and he wondered how an out of town firm would handle that aspect of the project. Mr. Buffington stated that the City GIS Division would provide a certain standard map with Census data to anyone who asked in order to avoid groups "drawing maps on napkins" because that would cost more to review. Commissioner Moore understood citizens could make proposals that would be considered by the consultants. Mr. Buffington clarified that the City would provide citizens with the data to draw what they felt would be the right boundaries. It would then be evaluated by the consultants.

Commissioner Smith thought the recommended firm might want an opportunity to respond to Commissioner Moore's question about reaching out to the community. *Mr. Kurt Spitzer* stated that his team had done this for twelve jurisdictions in Florida. He advised that the proposal had detailed the public outreach programs utilized in other jurisdictions in Pinellas County and Brevard County, and they had gone very well. Mr. Spitzer stated that this process was of great interest to a few people, and no matter how well publicized, those were the people who would participate. He advised that his GIS partner was second to none in terms of statistical analysis and mapping.

Commissioner Moore referred to travel expenses. He understood Kurt Spitzer was bidding \$59,000 to do the actual district mapping. Mr. Buffington explained that a detailed list of tasks had been included in the RFP, and unit costs had been provided. He advised that Kurt Spitzer's bid had been \$59,000 plus incidental expenses estimated at \$11,000 for travel based on ten trips from Tallahassee. The local GIS consultant had an office in Fort Lauderdale, so the mapping itself would be done here. Mr. Buffington stated that the project cost itself with the incidental expenses would be \$69,800, and that amount could vary depending on the number of maps submitted. Commissioner Moore just thought this was too expensive. Mayor Naugle felt the RFP process should be respected. Commissioner Moore agreed the Commission made the final decision in this process.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson that Consent Agenda Item No. Pur. 12 be approved as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Hutchinson, and Mayor Naugle. NAYS: Commissioner Moore.

Subordination of

Enterprise Zone Loan – McKinley Financial Services, Inc. (M-23)

A motion was presented authorizing the subordination of an Enterprise Zone (EZ) Loan in the amount of \$212,600 to third position for McKinley Financial Services, Inc., for property located 545-551 North Andrews Avenue.

Mayor Naugle was puzzled about how this issue had been presented to the Commission. He said there was an exhibit from the Department of Housing and Urban Development (HUD) that came on February 14, 2002 explaining the conflict. He wondered if this item should be deferred until a determination from HUD had been obtained, and he inquired about the plan to deal with what appeared to be an agreement entered into contrary to federal law.

Commissioner Moore stated that he had a conflict of interest, and he intended to step down. At 8:03 P.M., Commissioner Moore left the meeting.

Mr. Pete Witschen, Assistant City Manager, explained that in July, 2000, McKinley Financial Services had been awarded an Enterprise Zone Loan of \$212,600 as an inducement to make a capital investment and create jobs in an area not otherwise supported by the market. Although there was a technical default in terms of some critical timetables, the loan payments were current. Mr. Witschen said that construction had now stopped, and the City had disbursed about \$187,000, and there was a first mortgage ahead of the City's interest used to purchase two properties. Therefore, the total amount of indebtedness on the property was \$637,000. Mr. Witschen stated that the current market value of this property was about \$570,000.

Mr. Witschen said that when the build-out occurred, there would be substantial equity to put the City's loan in a secure position. After improvement, the value of the property was estimated at \$1.4 million and, at that point, the total indebtedness on the property would be about \$1.2 million. In addition, 15 to 20 jobs would be created and benefit the subject area. He introduced Ms. Faye Outlaw, Deputy Director of Community & Economic Development, to speak to the issue of conflict.

Ms. Outlaw said that the letter the Mayor had referenced had concerned a conflict of interest on this project. She explained that the preferred method of dealing with this offered by HUD would be to reimburse the block grant program from a non-federal source. That would take the project outside federal regulations and remove impact on the subordination agreement. Secondly, the City could go through a waiver exception process similar to that offered to Milton Jones. Ms. Outlaw explained that because of how HUD viewed the fundamental essence of a conflict in terms of a Commissioner being in a first-line position, it did not appear the City had a strong chance of obtaining a waiver. Further, if the waiver was granted, the City would have to justify the rationale for approving the subordination from an economic standpoint. Ms. Outlaw advised that a third option would be to not go through any of those processes. If the project did not materialize, the City would have to reimburse HUD as opposed to reimbursing the Program.

Mayor Naugle did not know how the City had come to be in this position because he had specifically asked the City Attorney if this deal was acceptable in light of Commissioner Moore's position with this company, and he had said there was no conflict. He was very disappointed but, if the City were to repay the funds, he wondered about the funding source. Mayor Naugle also asked the City Attorney if he was comfortable that this would not violate any State or local laws as long as Commissioner Moore abstained.

The City Attorney did not recall a specific conversation, but he had watched the tapes, and Commissioner Moore most assuredly had a conflict of interest under State law, and he had abstained at every step in the process. He believed that was the question he had been asked and answered in the past. He had not been aware at the time of the original negotiations between staff and HUD staff that there was another HUD regulation that came into play, and his inquiries at that time had ended with City and HUD staff who were under the impression that everything complied with HUD regulations. He acknowledged that he could have raised additional questions, but the documents had been reviewed, and he had advised Commissioner Moore that he had a conflict.

Mayor Naugle understood the City Attorney had not been aware of the federal regulations. He had spoken with him about this and a loan proposed for the Commissioner's wife's family, and the City Attorney had provided copies of State laws. The City Attorney did recall that, and he believed he had always taken the position that there was a conflict of interest, and that Commissioner Moore was required to abstain. He had done so. However, what had not been uncovered at the time were the HUD regulations. Since that time, a different process for reviewing these matters had been established. The City Attorney was comfortable with all of the processes discussed by Ms. Outlaw.

Mayor Naugle inquired about the funds to replace the block grant funds. Ms. Outlaw said non-federal sources would have to be considered. However, she thought it would be an exercise in futility to apply for the exception. The City Manager said a specific funding recommendation had not yet been developed, but it had to be a non-federal source. He stated that staff was examining all of the programs, and the Commission had appropriated about \$400,000 to support the EZ Loan Program with General Fund dollars. The City Manager was not suggesting that source tonight, but that was one potential source. In addition, staff was examining some others that would involve some trade-offs within the CRA, perhaps through the use of some TIF funds. He stated that he would come back with a recommendation in this regard after analysis to avoid jeopardizing other ongoing programs.

Commissioner Smith said he had been under the impression that the conflict had not surfaced until subordination of the agreement. He asked if he was to understand that the conflict had applied to the original EZ Loan. Mr. Witschen replied that the conflict had actually arisen when the original EZ Loan had been granted in 2000, but awareness of that conflict had arisen upon subordination of the agreement.

The City Manager clarified that staff had become aware of the conflict under the HUD regulations when he, Mayor Naugle and Mr. Witschen had gone to visit HUD in Miami on another matter. He believed it had been during the latter part of January. At that time, he had learned that the conflict had been conveyed to a member of his staff who had not provided the information to him or to Mr. Witschen. Commissioner Smith asked when HUD had told that staff member of the conflict. The City Manager replied that it had been on the day of the presentation about subordination of the loan. Commissioner Smith understood the loan had been made a few years before, and the City Manager agreed that was correct.

The City Manager said that staff had thought the announcement of the conflict pursuant to State law was sufficient, and Commissioner Moore had recused himself whenever the subject had been discussed by the Commission. However, federal law went beyond State requirements. Commissioner Smith wondered if there was any legal recourse to get the money back. Mayor Naugle did not think so outside of suggesting there had been "malpractice" on the part of the City's legal staff.

Mr. Witschen wished to make something abundantly clear for the record. He said that when he had come before the Commission to present the subordination agreement, he would not have done so had he been aware that HUD had indicated that was something it did not wish to do. As of today, there was an EZ Loan that was not performing, and he expected that if the subordination agreement did not go forward, the construction would not be completed. The likelihood of recovering \$187,000 through some foreclosure action was questionable. He stated that if the Commission felt the subordination agreement was the correct action to take, the build-out value of the property would secure the mortgages and move the redevelopment project forward.

Commissioner Smith inquired about the other loan Mayor Naugle had referenced. He wondered if the City was in trouble over that loan as well. Mr. Witschen advised that the loan had never been consummated. Mayor Naugle believed the application had been withdrawn, and Mr. Witschen agreed that was correct.

The City Manager stated that with HUD's rigid interpretation in this case relative to potential conflicts, staff was now taking a look at all actions relative to federal funds, particularly those in which recommendations came forth from an advisory board. He explained that various people in the community had served on the Community Services Board, which had provided recommendations relating to the dispersal of some of those block grant dollars.

Commissioner Smith wondered if there was any way to appeal this ruling from HUD since the City had been acting in good faith. The City Manager said there was an avenue of appeal but, from a practical standpoint, the probability of success was not great. He did not recommend that route of formal appeal.

Commissioner Katz was very upset that the City was in this position. In fact, she believed this was the third time today that the Commission had been told monies would have to be repaid because mistakes had been made. She did not favor using General Fund dollars to address this problem, although she certainly did not think the City Attorney was to blame. However, she was concerned that these situations seemed to occur too often.

Mayor Naugle noted that the question before the Commission was whether or not to subordinate the loan. He said the project was currently stalled, and the applicant had offered a personal guarantee at the last meeting in addition to the other requirements. He stated that in order for the Commission to agree to subordinate the loan, they needed to know the source of the money before voting. The City Manager said that in that case, it would be his recommendation to appropriate the money from the tax increment funds available in that area. Mayor Naugle asked if any of those monies were federal dollars, and the City Manager replied they were not. Mayor Naugle asked if the conflict was remedied through State law by the person with the conflict abstaining. The City Manager believed that was correct.

The City Attorney stated that there was a process that could be pursued through HUD, but staff believed that the effort would not likely prove successful. However, there was a process, and everything had been done in an open, above board fashion as mentioned by Commissioner Smith. He advised that the situation would meet or exceed the factors indicated to initiate the process, but it appeared staff did not think it would ultimately prove fruitful. Nevertheless, it was an option.

Commissioner Katz thought the City should go through the appeal process even though staff did not think there was a chance of success. Commissioner Hutchinson agreed. Mr. Witschen suggested use of the TIF funds for the subordination in the event the City was unsuccessful in that process. Mayor Naugle did not feel that decision had to be made now. Commissioner Smith did not think it could be made now. Mayor Naugle pointed out that the Advisory Board might want some input as to the use of the TIF funds.

Mr. Michael Moskowitz, of McKinley Financial Services, stated that the subordination agreement was necessary in order to move the redevelopment project forward. He said he disagreed with HUD's interpretation of the regulations, and the letter that had been provided was one individual's interpretation without citations relating to the HUD Handbook, any case law, or administrative decisions whatsoever. Mr. Moskowitz agreed with City staff that the waiver process was time consuming and might not be successful since it would amount to asking HUD staff to change their minds on something they had already said.

Mr. Moskowitz said the issue here was not the subordination document, but the EZ Loan. He stated that the subordination document was what would allow the project to go forward. Mr. Moskowitz stated that there was a \$500,000 construction loan commitment that would expire during a lengthy administrative process with HUD. He said there was a \$386,000 personal commitment by McKinley Financial to invest equity dollars, so there was already a substantial investment in this project. Mr. Moskowitz advised that expiration of the loan commitment would jeopardize the entire project, so there was a timing problem that necessitated this request for subordination.

Mr. Moskowitz stated that a building permit had been issued, and a construction contract had been executed so the project was ready to go. He suggested that the City could execute the subordination agreement and allow the project to go forward, and then take the action recommended by staff to make other dollars available and, at the same time, pursue the HUD process. He believed that taking all of those steps would stop nothing in its tracks, but pursuing the administrative process alone stopped everything else and potentially jeopardized the project. Mr. Moskowitz said he was willing to work with the City Attorney and assist any way possible in the request to HUD to reconsider the interpretation. He advised that he had worked for HUD for two years in Washington twenty years ago, and he was quite familiar with the process.

Mayor Naugle understood that if the City Commission did not approve the subordination tonight, without identifying the secondary funding source, the construction could not go forward. Mr. Moskowitz agreed that was true because the \$500,000 construction loan could not close without being in second position. Mayor Naugle understood if the subordination was approved, the City would be in the third position without having approved the secondary source. Mr. Moskowitz agreed closing could occur immediately, and the secondary source did not have to be identified now.

Ms. Outlaw encouraged the Commission to approve the subordination because that would put the City in a better position. She explained that if it were not approved, the City would still face with the same issues at the end of the process. She stated that approving the subordination without identifying the funding source would not materially hurt the City's position in that HUD had not said the program had to be reimbursed within any specific timeframe. Therefore, the identification of a non-federal funding source was not critical to the subordination.

Commissioner Smith inquired as to the level of investment made by McKinley Financial in this parcel. Mr. Moskowitz replied that upon completion of the construction, there would be an investment of over \$400,000 of the \$1.4 million value of the property at that time. Commissioner Smith asked about the investment made so far, and Mr. Moskowitz estimated about \$100,000.

Mayor Naugle understood the purchase money mortgage was in the amount of \$450,000, and there was a \$500,000 construction loan. Further, the City's amount was \$212,000.

Commissioner Smith wondered if there could be some personal guaranty or performance bond so that if the Commission could not reach consensus on the secondary funding source, he could move forward with his own funds. Mr. Moskowitz did not believe he could do the whole project with his own funds, but it appeared Commissioner Smith was suggesting Mr. McKinley replace \$500,000. Commissioner Smith noted that if the project fell apart now, all Mr. McKinley would have is a building in a "tough area" with little resale value. Therefore, it might be a better business decision for him to trust in this Commission as it had trusted in him. Mr. Moskowitz stated that Mr. McKinley was not a guarantor on the City's loan, but he had agreed to personally guarantee the loan in exchange for the subordination, so the City would be getting something additional, which complemented staff's suggestion that it would put the City in a better equity position.

Mayor Naugle asked if the \$500,000 construction loan was from an institution that would give draws and require progress as the monies were disbursed. Mr. Moskowitz replied it was, and the institution was First Southern Bank.

Commissioner Smith wondered how Mr. McKinley's guarantee on the \$212,000 loan could be ensured. Mr. Witschen believed an agreement could be crafted that would bind Mr. McKinley as a condition of the subordination. Commissioner Smith asked how the City would collect if that became necessary. The City Attorney explained that in accordance with the representations made to the Commission by Mr. McKinley, he would personally guarantee this particular increment of financing on the project. He stated that an instrument would be drafted to ensure that the City could, for instance, pursue his personal assets in court outside and in addition to the corporate representations being made as a party to this mortgage agreement.

Mr. Bob Dunckel, Assistant City Attorney, stated that when the subordination had been structured, a personal guaranty had been built in and had already been executed by Mr. McKinley. He advised that the personal guaranty was not accompanied by any pledge of assets. Commissioner Smith understood that would require seeking redress in court, and Mr. Dunckel agreed that was correct.

Commissioner Smith said he was just not comfortable with this entire process. He felt it was flawed. Commissioner Hutchinson agreed, but she did not see much choice. However, if this ever happened again, she would not be as quiet as she had been this evening.

Mayor Naugle asked the City Manager if he had put a policy in place to prevent the non-disclosure of pertinent information to the Commission before a vote. He asked if the particularly employee involved was aware this had been a very grave error. The City Manager replied that he had made it clear that this type of information flow was crucial to maintaining credibility and accomplishing City goals. He said there had been an obvious lapse of judgment on the part of the staff member involved, and he had taken appropriate corrective action. The City Manager apologized for the error, and he would make sure all staff members understood the importance of disclosing this type of information.

Mayor Naugle asked the City Attorney if he planned to have someone on his staff educated on these regulations to ensure that when issues were presented to the City Commission, they had ensured it met legal tests so this situation would not occur again. The City Attorney stated that he had examined this entire transaction in some depth, and he believed his staff understood its mission and the standard that had been set. He advised that while one of these things could potentially slip through over a period of years handling hundreds of transactions, his goal was to assure that nothing like this happens even on a single occasion. The City Attorney added that he was still not completely sure that HUD had made a correct interpretation, but it was HUD's decision, and he would do everything possible to comply with whatever regulations were imposed.

Mayor Naugle understood the City Attorney disagreed with HUD's interpretation after having read the regulation. The City Attorney clarified that he was not disagreeing with HUD, but these things could be read in different ways by different people, as Mr. Moskowitz had indicated. He understood Mr. Moskowitz would assist as the process was moved forward.

Motion made by Commissioner Katz and seconded by Commissioner Hutchinson to approve the subordination of an Enterprise Zone Loan in the amount of \$212,600 to third position for McKinley Financial Services, Inc., for property located at 545-551 North Andrews Avenue under the terms and conditions discussed. Roll call showed: YEAS: Commissioners Katz, Hutchinson, and Mayor Naugle. NAYS: Commissioner Smith. Commissioner Moore abstained.

At 8:39 P.M., Commissioner Moore returned to the meeting.

Settlement of Workers

Compensation File Nos. WC 97-9155 and WC 98-10339 (Brian Kearney) (M-24)

A motion was presented authorizing the settlement of Workers Compensation File Nos. WC 97-9155 and WC 98-10339 (Brian Kearney) in the amount of \$98,500.

Motion made by Commissioner Smith and seconded by Commissioner Hutchinson to approve the settlement of WC 97-9155 and WC 98-10339 as recommended. Roll call showed: YEAS: Commissioners Katz, Smith, Hutchinson and Mayor Naugle. NAYS: Commissioner Moore.

Settlement of Workers Compensation File No. WC 97-9453 (James DiPaolo)..... (M-25)

A motion authorizing the settlement of Workers Compensation File No. WC 97-9453 (James DiPaolo) in the amount of \$105,500 was DELETED from the agenda.

Cable Services Franchise Cancellation – RCN Telecom Services, Inc. (O-1)

An ordinance was presented pursuant to Section 8.15 of the City Charter, canceling the cable system franchise with RCN Telecom Services, Inc. for inability to construct a cable system to compete with the existing cable operator. Ordinance No. C-02-3 was published January 24 and 31, 2002, and was approved on first reading at the Regular Meeting of February 5, 2002, by a vote of 5-0.

Commissioner Smith introduced the following ordinance on second reading:

ORDINANCE NO. C-02-3

AN ORDINANCE PURSUANT TO SECTION 8.15 OF THE CHARTER OF THE CITY OF FORT LAUDERDALE, FLORIDA, CANCELING THE CABLE SYSTEM FRANCHISE WITH RCN TELECOM SERVICES, INC. FOR INABILITY TO CONSTRUCT A CABLE SYSTEM TO COMPETE WITH THE EXISTING CABLE OPERATOR.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

**Changes to Development Order (DO) /PEDD –
Lend Lease c/o Sylvan Rothschild – Northport/
Broward County Convention Center Development
of Regional Impact (DRI) (PZ Case No. 88-R-89[91]) (O-2)**

At the January 16, 2002 regular Planning and Zoning Board meeting, the following application was approved by a vote of 5-3. Ordinance No. C-02-1 was published January 8, 2002 and February 16, 2002, and was approved on first reading January 23, 2002 by a vote of 3-2 (Hutchinson and Naugle).

Applicant: Lend Lease c/o Sylvan Rothschild
Request: Approval of DO Changes/PEDD
a) Provide that existing retail use in the Northport Leasehold Area may be changed to office use;
b) Extend build-out date
c) Modify requirements for the required traffic study

Having affirmed to speak only the truth by virtue of an oath administered by the City Clerk, the following individuals offered comment on this item:

Ms. Stacey Dahlstrom, Planner, stated that one of the issues addressed in this item related to questions about Port security as discussed during the Conference meeting earlier today. A second item related to traffic issues, and the third involved a question about property taxes. She advised that the City Attorney's Office had researched the matter, and the results had been distributed to the Commission.

Ms. Debbie Orshefsky, Attorney representing the applicant, introduced Mr. Rothschild, the owner's representative. She advised that the owner was the LaSalle National Bank Association, as trustee, for a publicly-traded trust fund that held a variety of mortgage assets. The beneficial owners were the certificate holders of the assets, including Mr. Stacker's client. She stated that LaSalle was a nationally chartered bank, organized in New York, and the services of Lend Lease Real Estate Investment Services, Inc. had been engaged as a special servicer, which basically handled distressed properties. Ms. Orshefsky reported that Mr. Rothschild was present in his capacity as a fiduciary, and he could do all things with respect to the property. She also introduced Mr. Joe Pollack, Traffic Consultant, who was present to answer any questions in that regard.

Ms. Orshefsky stated that this item involved a request to amend the Northport/Broward County Convention Center DRI with respect to the Northport leasehold area. She said the requests included a build-out date extension from December, 2002 to 2008. She advised that was the same date as the County's build-out date for the Convention Center property. Ms. Orshefsky stated that this would also add a certain amount of flexibility to allow the existing retail to be converted to office, subject to a local process involving site plan review, and such a change would result in the afternoon traffic reduction listed in the consultant's report.

Ms. Orshefsky reported that there was also a change related to local traffic conditions associated with this project. She advised that both the applicant's and the City's consultants agreed there were no new or different regional impacts from this project, even if the Port closed certain roadways as might be done in the near future. However, there was a \$663,000 amount this project was responsible for under a former method that had little to do with current reality. Ms. Orshefsky said that in order to make the project more realistic and to allow the Commission to address local traffic impacts of the project in the future, the proposed development order would provide for submission of a traffic study 60 days in advance of site plan approval, which would require City Commission approval.

Ms. Orshefsky explained that by approving this request, the City Commission would provide an opportunity for a distressed project to come back to life. Further, when it did, the Commission would have guaranteed that there would be \$663,000 available to address local impacts should they be identified in the future during the site plan approval process. She advised that any proceeds would be kept by the City to use for any transit enhancement in Fort Lauderdale.

Ms. Orshefsky said it had become apparent during the Conference discussion this afternoon about security at the Port that the Convention Center and Northport would be able to have direct access from 17th Street and Eisenhower Boulevard in the long run. She felt that would work in terms of the plans for the site, and she encouraged the Commission to approve the request.

Mr. Ed Stacker, Attorney, advised he represented CDC Mortgage Capital, which was a New York corporation with offices in New York and Los Angeles. It was a subsidiary of CDC North America, which was a subsidiary of CDC IXIS, a French company, and that was one of the largest financial institutions in the world. He said he was here in an equity position on this property as a bond holder, and his intent was to put the community in a better position. Mr. Stacker advised that the lenders were "taking a significant bath" in this project, but he was trying to bring a little certainty to development of this site going forward.

Mr. Stacker stated that DRI determinations were made all the time throughout the State under Chapter 380, Florida Statutes, and this request had undergone tremendous scrutiny at the local level, the regional level, and the State level. It had been determined that this build-out extension represented a non-substantial deviation, and this was something that was done quite routinely. Mr. Stacker felt the County had managed to obfuscate the issues, perhaps under the guise of concerns, but he asked that the Commission focus on the DRI aspects of the item. He explained that the request was simply for an extension of the build-out date. Mr. Stacker pointed out that less than two weeks ago, County staff had recommended deferral of consideration of a nearby plat before the County Commission, for Port security reasons. However, the request had been withdrawn, and the County Commission had unanimously approved the plat for about 200,000 square feet of new commercial retail in the area. In this case, nothing new was being requested, and some "soft" money would be replaced with some "hard" money for local mass transit improvements in the future. Mr. Stacker encouraged the Commission to approve the request.

Mr. Elliott Auerhahn, Broward County Development Management Director, understood the Commission had discussed the security measures being contemplated at its Conference meeting today. He believed those measures would have significant and long-term impacts on traffic patterns throughout the area, including on 17th Street. Mr. Auerhahn stated that no one could quantify those impacts or the cost of litigating them, although a study was underway and would be completed by summer. Therefore, no one knew if the approximately \$600,000 would be sufficient or not to address future needs.

Mr. Auerhahn said the County had a long-standing position that the development level proposed for this site was too intense considering the traffic and parking issues in the immediate area and the size of this parcel. With those uncertainties and conditions, he suggested that the Commission disapprove a build-out date of 2008, and perhaps consider a lesser period of time instead.

Ms. Orshefsky stated that the \$60,000 would be available when the site plan was approved for a small piece of this DRI. She pointed out that the County portion was the largest part at over 20 acres compared to 4 acres. Further, she believed the County would have to present a similar request itself. Mr. Auerhahn did not feel the size of the site was relevant as it was the 300,000 square feet of development that mattered.

Mayor Naugle thought the best thing to do would be to defer this until the County's traffic study was completed this summer since the existing DO would not expire until the end of the year. In the alternative, he felt it would be a good idea to maintain the 18-month timeframe. Mayor Naugle believed it would be reckless to tie this and reserve trips until 2008. Commissioner Smith understood the site plan would have to be approved by the Commission, so this action was not really approving anything other than the ability to request that approval at a later date.

Commissioner Hutchinson disclosed that she had spoken with Ms. Orshefsky and Mr. Stacker in this regard. She had tried to find a reason not to approve this, but she could not find a reason to deny this request. The Commission had seen the Port security plan today, and it removed Northport and the Convention Center from the "mix" so both properties would have direct access from 17th Street. She understood that there were impacts from the Port and the cut-through that had always been allowed through the facility on Miami Road, Federal Highway, and 17th Street. Commissioner Hutchinson also believed that office space would result in fewer trips than retail uses. Thus, even though she had sought reasons to deny this request, she had found none.

Mayor Naugle asked Commissioner Hutchinson how she felt about extending the build-out date to 2008. Commissioner Hutchinson did not see that as a major issue since the City Commission would have to approve a site plan. Mayor Naugle thought it would cause a loss of leverage and suggested a build-out date of 2004. At that time, additional extensions could be considered, but he felt this request was unusual because most such requests involved 18-month extensions. Commissioner Hutchinson believed those involved site plan approvals. Commissioner Moore agreed with Mayor Naugle and suggested a compromise date of 2006, as he also agreed with Commissioner Hutchinson that there was no reason to deny the request. Nevertheless, he wanted to see this property reused.

Commissioner Smith disclosed that he had also spoken with Ms. Orshefsky and Mr. Stacker, and Commissioner Moore had as well. Commissioner Katz made the same disclosures and said she had no objection to extending the build-out date to 2008. Mayor Naugle advised that Ms. Orshefsky had not contacted him, but he had returned a voice mail to Mr. Stacker. However, he had not spoken with him either.

Ms. Orshefsky added that a build-out date of 2006 would be sufficient.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to amend the build-out date to March, 2006. Roll call showed: YES: Commissioners Katz, Smith, Moore, and Hutchinson. NAYS: Mayor Naugle.

Commissioner Smith introduced the following ordinance, as amended, on second reading:

ORDINANCE NO. C-02-1

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING ORDINANCE NO. C-89-9 AS AMENDED BY ORDINANCE NO. C-89-34, ORDINANCE NO. C-90-100, ORDINANCE NO. C-95-40, ORDINANCE NO. C-97-2, ORDINANCE NO. C-97-63, ORDINANCE NO. C-98-25, ORDINANCE NO. C-98-45 AND ORDINANCE NO. C-98-68 OF THE CITY OF FORT LAUDERDALE, FLORIDA, WHICH ORDINANCES AMENDED THE DEVELOPMENT ORDER FOR THE NORTHPORT/BROWARD COUNTY CONVENTION CENTER DEVELOPMENT OF REGIONAL IMPACT ("DRI") LOCATED SOUTH OF S. E. 17TH STREET, EAST OF EISENHOWER BOULEVARD AND NORTH OF S. E. 20TH STREET, WITHIN THE JURISDICTIONAL BOUNDARIES OF PORT EVERGLADES, IN THE CITY OF FORT LAUDERDALE TO PROVIDE THAT EXISTING RETAIL USE IN THE NORTHPORT LEASEHOLD AREA MAY BE CHANGED TO OFFICE, TO EXTEND THE BUILDOUT DATE FOR THE NORTHPORT LEASEHOLD AREA AND TO CHANGE THE REQUIREMENT FOR THE TRAFFIC STUDY.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, and Hutchinson. NAYS: Mayor Naugle.

Amendment to Pay Plan (O-3)

An ordinance was presented amending the Pay Plan of the City providing for new classes, a title change, a class code number change, and the deletion of a class in Schedule I; and providing for the deletion of a class in Schedule II. Notice of proposed ordinance was published February 16, 2002.

Commissioner Moore introduced the following ordinance on first reading:

ORDINANCE NO. C-02-4

AN ORDINANCE AMENDING THE PAY PLAN OF THE CITY OF FORT LAUDERDALE, FLORIDA PROVIDING FOR NEW CLASSES, A TITLE CHANGE, A CLASS CODE NUMBER CHANGE, AND THE DELETION OF A CLASS IN SCHEDULE I; AND PROVIDING FOR THE DELETION OF A CLASS IN SCHEDULE II.

Which ordinance was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

At 9:07 P.M., Commissioner Katz left the meeting.

Florida Communities Trust – Hyde Park Market Property Site (R-1)

A resolution was presented authorizing the proper City officials to execute a conceptual approval agreement and other documents with regards to the acceptance of a grant from the Florida Communities Trust in an amount up to \$6,600,000 for purchase of the Hyde Park Market property site located in the 500 Block of East Las Olas Boulevard.

Commissioner Moore did not support this item. He hoped the City Commission would consider reallocation of this money in some fashion based upon recent discussions about the viability of this deal materializing. He wondered if some reallocation of this money was possible for other projects, such as the aquatics facility on the beach. Mr. Bud Bentley, Assistant City Manager, replied that the City could not ask the State to reallocate the grant to a different site.

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 02-23

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONCEPTUAL APPROVAL AGREEMENT AND CONFIDENTIALITY AGREEMENT WITH REGARD TO THE ACCEPTANCE OF A GRANT FROM THE FLORIDA COMMUNITIES TRUST IN AN AMOUNT UP TO \$6,600,000 FOR THE PURCHASE OF THE PROPERTY KNOWN AS THE HYDE PARK MARKET SITE AND SUCH OTHER DOCUMENTS ASSOCIATED WITH THE ACCEPTANCE OF THE GRANT.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Smith, Hutchinson and Mayor Naugle. NAYS: Commissioner Moore.

**Grant Application – Florida Inland Navigation District
(FIND) Waterways Assistance Program – Project 10057 –
S.W. 11 Avenue Swing Bridge (R-2)**

A resolution was presented authorizing the proper City officials to apply for a grant with FIND, Waterways Assistance Program, for the repair of the S.W. 11 Avenue Swing Bridge located between Waverly Road and S.W. 5 Place; and further authorizing the proper City officials to execute all documents necessary to accept such grant funds.

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 02-24

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO APPLY FOR A GRANT UNDER THE FLORIDA INLAND NAVIGATION DISTRICT WATERWAYS ASSISTANCE PROGRAM FOR DESIGN OF THE RESTORATION OF THE SWING BRIDGE AT S.W. 11 AVENUE BETWEEN WAVERLY ROAD AND S.W. 5 PLACE; AND FURTHER AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE ALL DOCUMENTS NECESSARY TO RECEIVE SUCH GRANT FUNDING.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

At 9:10 P.M., Commissioner Katz returned to the meeting.

**Grant Application –
Florida Inland Navigation District (FIND) Waterways Assistance
Program – Project 10426 – Seawall Repair Along South Side of New River (R-3)**

A resolution was presented authorizing the proper City officials to apply for a grant with FIND, Waterways Assistance Program, for the repair of the seawall along the south side of New River, between Marshall's Bridge and S.W. 4 Avenue; and further authorizing the proper City officials to execute all documents necessary to accept such grant funds.

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 02-25

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO APPLY FOR A GRANT UNDER THE FLORIDA INLAND NAVIGATION DISTRICT WATERWAYS ASSISTANCE PROGRAM FOR FUNDING THE CONSTRUCTION OF 826 FEET OF SEAWALL ALONG THE SOUTH SIDE OF THE NEW RIVER BETWEEN MARSHALL'S BRIDGE AND S.W. 4 AVENUE WITH NEW UTILITY PEDESTALS, MARINE SANITATION PUMP-OUTS FOR EACH SLIP, AND NECESSARY FIRE PROTECTION FOR THE AREA. _____

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

**Grant Application – Florida Inland Navigation
District (FIND) – Riverwalk Over the Henry E. Kinney Tunnel (Phase II) (R-4)**

A resolution was presented authorizing the proper City officials to apply for a grant with FIND for Phase II of the planned improvements for the portion of Riverwalk over the Henry E. Kinney Tunnel (area of S.E. 6 Avenue from Sagamore Road south to the New River, and proposed easement area in front of the Stranahan House along the New River); and further authorizing the proper City officials to execute all documents necessary to accept such grant funds.

Commissioner Smith wished to dispel a few rumors circulating in the community in connection with this item. He reported that Sagamore Road was only closed for the construction, and it was about to be reopened to traffic. Commissioner Smith had also had a call about the two-way traffic next to the Hyde Park site, which had been fenced. He explained that the Riverside Hotel was constructing the Riverwalk connection in this location. Commissioner Smith understood staff was still seeking approval for a connection behind the Stranahan House. Mr. Pete Sheridan, Engineering Division, advised that process was moving forward.

Mayor Naugle inquired about the issue of native species that would be consistent with the rest of Riverwalk. Mr. Sheridan advised that had been included in the plan. Commissioner Smith asked if this grant would address the area behind Stranahan House. Mr. Sheridan replied that it would be used for that area and the area over the tunnel. Commissioner Hutchinson understood 50% of the construction costs could come from this FIND grant. Mr. Sheridan agreed that was correct.

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 02-26

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO APPLY FOR A GRANT UNDER THE FLORIDA INLAND NAVIGATION DISTRICT WATERWAYS ASSISTANCE PROGRAM FOR SEAWALL, VESSEL DOCKING, SAFETY AND LANDSCAPING IMPROVEMENTS TO THE AREA OF SE 6 AVENUE FROM SAGAMORE DRIVE SOUTH TO THE NEW RIVER AND IN FRONT OF STRANAHAN HOUSE ALONG THE NEW RIVER.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

Melrose Park Area Annexation (R-5)

A resolution was presented supporting the unique character of the Melrose Park area and describing the services to be provided in the area effective September 15, 2002.

Commissioner Smith reported that some citizens were concerned about the possibility of the City taking a “different look” at this area. Mr. Chris Wren, Community Planning Manager, stated that the resolutions were geographically limited to Melrose Park and the Riverland Road Southwest area. He stated that another issue had been raised this morning in that the first page of the exhibits related to both areas should not have included the word “legally.” It was staff’s intent to recommend that the City work with residents of both areas to develop zoning regulations that would preserve existing structures, regardless of how they had come into existence. Mr. Wren noted that the resolutions crafted in this regard had not contained this problem.

Commissioner Moore wanted to utilize the “favored nation” language when it came to all negotiations involving unincorporated pockets. The City Attorney agreed to do so from this day forward.

Commissioner Katz had a problem with the language contained under “intergovernmental coordination.” She said there was terminology about protecting the integrity and well being of any neighborhood. It indicated that the City Commission supported any mitigation, and she did not understand the purpose. Mr. Wren explained that the intent was to address some specific items that were not typically included in resolutions, such as motorcycle noise on I-595. This paragraph attempted to convey that this was something the City would “fight for” so if a neighborhood had a problem, the City would try to mitigate it.

Commissioner Katz did not like the word “mitigation” because it was unclear and open to interpretation. Mr. Wren advised that he could work with the City Attorney’s Office on other language. The City Manager explained that there were a number of issues about which any neighborhood might have a particular concern, as opposed to concerns that affected the whole City. He stated that commitments had been made to work with the neighborhoods to resolve those particular problems. Commissioner Katz understood the intent, but she was concerned about the potential for different interpretations of the word “mitigation.” Mr. Wren believed “solve neighborhood problems” could be used instead. Commissioner Katz wanted something very specific to the intent. Mr. Wren said he would work with the City Attorney’s Office and present some alternative language informally to the Commission prior to the Mayor’s signature.

Commissioner Hutchinson was not uncomfortable with the language because this was something that was done on a regular basis, and she did not read it the same way as Commissioner Katz, who thought mitigation might be construed as meaning in another area. She saw this as something Commissioners did every day as part of their jobs, so she wanted to see the proposed language change.

Commissioner Smith thought it was important to move ahead because time was of the essence. In order to simplify the language, he suggested language indicating that the City Commission would support neighborhoods in any effort to address situations that might adversely affect it, realizing that multi-jurisdictional decisions might be necessary, which was something the Commissioners did every day. A member of the audience suggested the term “advocate.”

The City Attorney stated that the word “mitigation” could be deleted in favor of the word “remedial” because the intent was to help fix problems that adversely affected neighborhoods. It was agreed. The City Attorney restated that the language would read “the City Commission was in support of any remedial measures or efforts against an action that might adversely affect a neighborhood.”

Commissioner Smith introduced a written resolution entitled:

RESOLUTION NO. 02-27

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, DECLARING ITS SUPPORT FOR THE INCORPORATION OF MELROSE PARK INTO THE CITY OF FORT LAUDERDALE AND ITS INTENT TO PRESERVE THE EXISTING CHARACTER, INTEGRITY AND UNIQUE LIFESTYLE OF THE AREA; AND DESCRIBING THE SERVICES TO BE PROVIDED BY THE CITY OF FORT LAUDERDALE TO THE AREA.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

Riverland/Southwest Area (aka Greater Riverland Road Area) Annexation (R-6)

A resolution was presented supporting the unique character of the Riverland/Southwest Area (aka Greater Riverland Road Area) and describing the services to be provided in the area, contingent upon approval of annexation in the March 12, 2002 election, to take effect September 15, 2002.

Commissioner Katz noted that the language change discussed under Item R-5 applied to this resolution as well. Commissioner Smith recognized the presence of *Mr. Randy Dunlap* who had helped spearhead this effort to join the City.

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 02-28

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, DECLARING ITS SUPPORT FOR THE INCORPORATION OF THE GREATER RIVERLAND ROAD AREA INTO THE CITY OF FORT LAUDERDALE AND ITS INTENT TO PRESERVE THE EXISTING CHARACTER, INTEGRITY AND UNIQUE LIFESTYLE OF THE AREA; AND DESCRIBING THE SERVICES TO BE PROVIDED BY THE CITY OF FORT LAUDERDALE TO THE AREA.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

Extension of Site Plan Approval – MJQ Development LLC - “Club Regent/Ocean Club Project” (PZ Case No. 30-R-98) (R-7)

A resolution was presented authorizing an extension of the site plan approval from March 7, 2002 to September 7, 2002.

Applicant: MJQ Development LLC
Request: Extension of site plan approval
Location: 550 Seabreeze Boulevard

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 02-29

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO EXTEND THE TIME OF THE SITE PLAN APPROVED IN CONNECTION WITH THE CONSTRUCTION OF A HOTEL, PARKING GARAGE AND RESTAURANT AND APPROVAL OF SETBACK REDUCTIONS ON PROPERTY LOCATED AT 515 SOUTH ATLANTIC BOULEVARD IN FORT LAUDERDALE, FLORIDA.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, and Hutchinson. NAYS: Mayor Naugle.

**Site Plan Approval/ABA and NBRA –
Sable Resorts – “The Capri” (PZ Case No. 60-R-01) (R-8)**

At the January 16, 2002 Planning and Zoning Board regular meeting, it was recommended by a vote of 6-2 that the following application be approved.

Applicant: Sable Resorts
Request: Site plan approval, modification of yards, modification of 200 foot length requirements
Location: 3101 Bayshore Drive at State Road A-1-A (between East Las Olas Boulevard and Sunrise Boulevard)

Having affirmed to speak only the truth by virtue of an oath administered by the City Clerk, the following individuals offered comment on this item:

Mr. Bruce Chatterton, Planning and Zoning Division, explained that this was a large and complex, mixed-use project. He stated that the project incorporated 346 hotel rooms, 171 time-share units, over 30,000 square feet of retail use, 4 restaurants, banquet and meeting rooms, a health club, and several bars and cocktail lounges. The proposed structure was approximately 250 feet in height at its highest point, and the project site was split by two zoning districts – ABA and a small portion within the NBRA district.

Mr. Chatterton referred to the context of the project. He stated that the 7-story Leisure House Condominium shared the block with the proposed project. To the west was A-1-A, and there were a number of smaller hotels to the west, with an 11-story condominium further south, a 15-story condominium and the 13-story Yankee Trader nearby. He advised that Tiffany House was located to the east, along with some vacant land, and there was some vacant land to the north on which a 3-story development and the 22-story Fortune House development were proposed.

Mr. Chatterton said this was before the Commission for Level IV site plan review because of 4 different features – the hotel and restaurant uses within the central beach area; the yard modifications proposed; the proposed modification of the 200’ building width and length in the central beach area; and, an FAR greater than 4.0. He believed the least critical of these were the hotel and restaurant use as there was a great precedent for such uses in the central beach area.

At 9:27 P.M., Commissioner Moore left the meeting.

Mr. Chatterton referred to the requested yard modification. He displayed a table indicating the proposed and the required yards in each of the zoning districts. Mr. Chatterton noted that the project met all the yard requirements at present for the ABA portion of the site. He explained that the building meandered anywhere from 20’ to 40’ from the property line, but there were issues in the NBRA area with respect to yard modifications due to the half-height requirement. Mr. Chatterton stated that the yards in the NBRA portion of the site varied from 3’ to 99’.

At 9:28 P.M., Commissioner Hutchinson left the meeting. She returned at 9:30 P.M.

Mr. Chatterton displayed a map of the area and pointed out a corner of the tower where it came the closest to the Leisure House Condominium building. He stated that this was the most severe request for yard modification because it came within 26' of the property line. Mr. Chatterton noted that the pedestal portion of the building was approximately 46' in height, so a yard modification of just 3' was required for that portion of the structure closest to the Leisure House. In addition, the Leisure House was set back 46' on one side and about 65' on the other side, so it was positioned away from the Capri. He noted that the applicant had provided a narrative relating to the requested yard modifications.

Mr. Chatterton said another request concerned the building length. He noted that this was a difficult project to visualize, and he understood the applicant had prepared a three-dimensional rendering for illustrative purposes. Mr. Chatterton advised that the project was composed of 5 separate structures, but for the purposes of applying the dimensional requirements of the Code, the Zoning Administrator had determined that the Capri was a single structure. From that perspective, the Capri would be approximately 661' long. However, from a mitigation standpoint, the pedestals and towers "read" as separate structures.

At 9:35 P.M., Commissioner Moore returned to the meeting.

Mr. Chatterton stated that the separation of 60' between the towers allowed light and air to pass through, and the Code allowed building length to be increased for that portion of a structure below 55' in height. In this case, the pedestals were below that height limitation, so the project had been designed with that criteria in mind. He noted that the applicant's narrative relating to building length modification had been distributed to the Commission.

Mr. Chatterton advised that the applicant was also requesting an increase in the floor area ratio (FAR) from 4.0 to 4.53. He stated that an increase of this nature was allowed by the Code if a development was ranked high enough on the design compatibility and community character scale. He stated that a few of those criteria were that a project have a distinctive design, architectural character sensitive to Florida's culture, building orientation that relieved the monotony of structures on the beach, accessible pedestrian spaces, distinctive public facilities, and aggregated lots and parcels.

Mr. Chatterton reported that staff had gone through all the criteria and come up with a project score of 11, and 9 points were needed to qualify for a 20% increase in FAR, and the applicant was seeking a 13% increase. He stated that "people street" requirements for Riomar Street would be met and also on Bayshore Drive, although that was not a designated "people street."

Mr. Chatterton said the last aspect of this item related to the private sector design guidelines, commonly referred to as the beach guidelines. He stated those issues were addressed in the back-up material distributed to the Commission, and the Planning & Zoning Board recommended approval of this project by a vote of 6 to 2. Mr. Chatterton noted that several area property owners had been present in support of the project, including a few residents of the Leisure Beach Condominium. There were also a few owners who opposed it. Mr. Chatterton added that if the Commission determined that this development meant the site plan Level IV requirements, staff had distributed written conditions that were recommended.

Mr. George Platt, Attorney representing the applicant, introduced his partner, *Mr. Steve Tilbrook*. Mr. Platt was pleased to present this world-class resort project that would help fulfill the vision created by the community for the beach. He stated that the owner of this project was Sable Resorts, Inc., and the developer was Colonial Development Group. Mr. Platt said this group had brought together the largest minority team project in the history of Broward County, and he felt that was significant. He believed this project would really add to the City's tax base and something of which every would be proud, with exciting and unique design elements.

Mr. Platt pointed out that the project included attractive, people-friendly streetscapes, significant setbacks and landscaped area, and he believed it would be compatible with surrounding areas. He advised that the applicant had reached out to the community and worked together, and he believed the project complied with the letter and the spirit of the City's rigorous Code. Mr. Platt introduced the development team, who were present to answer any questions that might be raised this evening.

Mayor Naugle asked if the applicant was the fee simple owner of all the property involved. Mr. Platt replied that the applicant owned all of the properties. He added that it had been a lengthy, arduous process, and it had been extraordinarily expensive.

Mr. Tilbrook presented a computer animation of the project after first describing the site as it existed today, with 10 separate hotels acquired for operation as one project. He noted that the Planning & Zoning Board had found the animation helpful, and the Commission had requested this type of modeling in the past. Mr. Tilbrook pointed out that this was a large site, so the development had been consolidated in the center of the property in order to mitigate impacts on neighbors and provide generous public spaces.

Commissioner Smith asked about the types of retail uses that were contemplated, and Mr. Tilbrook replied that specialty retail uses were proposed that catered primarily to hotel guests but also established an upscale retail component. He thought those merchandise might include jewelry, leather goods, resort wear, etc. Mr. Tilbrook felt it would be a true retail destination with 33,000 square feet of space. He noted that great efforts had been made to ensure the project was compatible with the community, and the development team had worked closely with the Central Beach Alliance and the Leisure House Condominium.

Mr. Tilbrook said there had been discussion about the ventilation of the enclosed parking structures at the Planning & Zoning Board hearing. He stated that while enclosed structures were good at mitigating impacts on neighboring properties, ventilation was an issue, so a specific ventilation system had been designed. That would move all the ventilation equipment off Riomar Street and off of Birch Road to ventilate exclusively onto Bayshore Drive, and as far as possible from the neighboring condominium. A specially designed ventilation fan would be utilized that had sound modifying components, and the fans would be set back from the building wall by 10' to 20'. At the request of Commissioner Smith, Mr. Tilbrook pointed out the location of the exhaust fans on the rendering. He added that the developer had also acquired some other neighboring properties, although they were not a part of this project.

Mr. John Street, of the Central Beach Alliance, advised that three major changes had been made to the Code during the planning process, and he thought it was clear this project involved more than one building. He did not see why the proposal should totally put aside the ordinance the Commission had adopted about two years ago.

At 9:55 P.M., Commissioner Moore left the meeting.

Mr. Mel Rubenstein was opposed to the construction of new high-rise buildings on the beach, and he represented those who lived in the Birch Crest Apartments. He explained that his condominium was having its annual meeting this evening, which had regrettably prevented many residents from attending this meeting. Mr. Rubenstein said the residents supported the concept of renewal, renovation and new construction on the barrier island, and they agreed that buildings should not shadow the beach. He supported efforts to beautify and maintain the beach, as well as efforts to restore sand lost to erosion, but he felt they were only good when common sense and moderation prevailed.

Mr. Rubenstein opposed to buildings that blocked views of the Ocean or the Intracoastal Waterway, as well as those that blocked sunlight or cast shadows on existing buildings, swimming pools or other facilities. He was opposed to any building that would have a high-density impact on the barrier island because that meant more traffic, noise, and pollution and generated greater needs for police services and utilities. He stated that there was already gridlock on A-1-A from Sunrise Boulevard to Las Olas Boulevard, and it was only a matter of time before there were identical conditions on Birch Road.

Mr. Rubenstein opposed a change in the nature or character of the beach area, which distinguished this region from Miami, Hallandale and the Galt Ocean Mile. He felt that which was good and unique on the barrier island should be preserved before it was all lost. At this time, he felt the area still had a charming, quaint, human scale and a livable environment, and Mr. Rubenstein felt that should be preserved. He suggested that a balance be maintained between high-rise and low level buildings. He also thought the City should purchase as much land as possible to construct new parks where people could enjoy the positive aspects of the beach area. Mr. Rubenstein felt there should be a change in policy that encouraged developers to construct smaller buildings that would be compatible with the surrounding neighborhoods.

At 10:00 P.M., Commissioner Moore returned to the meeting.

Mr. Rubenstein did not think it was fair that beach area residents had to fight against each individual construction proposal presented to the Commission. He thought it was wrong for the Commission to favor the big developers, who constructed tremendous high-rise buildings and then left and did not have to live with the consequences. Mr. Rubenstein pointed out that this would be the tallest building between Sunrise Boulevard and Bayshore Drive, and area residents were very much opposed to any building taller than 150'. Even then, he felt 150' would only be acceptable if there were a balance of small and large buildings.

Ms. Nicole Lenziger said she had recently purchased a condominium in Rio Mar, and she agreed with Mr. Rubenstein. She thought there were buildings in the area that needed "facelifts," but she had not planned to have a large tower in front of her unit. Ms. Lenziger pointed out that less was more sometimes.

Ms. Ruth Merrill, a resident of Leisure House, felt this was a huge project, and she was concerned about the impact on the area. She described her building and indicated that she had an eastward facing window. Ms. Merrill hoped the air flow from the east would be considered, and she was also concerned about the size of this project. She asked how high the parking garage would be, and Commissioner Smith believed it would be 55'.

Mayor Naugle believed the Leisure House had voted in favor of the project. Ms. Merrill advised that the Board had met in June, and it had been agreeable, but she did not feel residents of the building had a great deal of input. She said there was a general feeling that Leisure House residents wanted to get along with their neighbors. Ms. Merrill noted that there had only been a few people in residence in June when the plan had been presented, and the developer had been generous. However, only verbal agreements had been reached to her knowledge. She believed the consensus of opinion in the building now was that the residents did not know as much about the development as they wished.

Commissioner Hutchinson assumed Ms. Merrill was aware that in September, 2001, the Leisure House Association had sent a letter in this regard. Ms. Merrill said she had a copy of the letter.

Mr. Kevin Day Connor said he was a permanent, year round resident, and he was in favor of this development. He stated that it had already improved the neighborhood by buying out hotels where drug use was prevalent. He believed property values had increased, and this developer had worked closely with the residents. Mr. Connor stated that issues raised about the parking had been addressed, and he supported the project.

Mr. John Hickey, President of the Leisure House Association, felt his Association had been provided a very detailed look at this project and its potential impacts. He could find no reason to oppose it, which was why the Board of Directors had voted not to oppose it. Mr. Hickey said the only problem that had been raised involved the noise from the ventilation fan, but it appeared that problem had been resolved.

Mr. Tilbrook believed this project was consistent with the Code, and he felt the unique design qualified the project for a waiver of the 200' building limitation in the east/west direction. He stated that the project had been favorably received by the Central Beach Alliance, and he did not believe support for this project would set any negative precedent. Mr. Tilbrook felt it complied with the spirit of the 200' building limitation and requested the Commission's favorable consideration of this proposal. Mr. Street confirmed that every member of the Board of Directors of the Central Beach Alliance supported his position, although a request for a length exception three times as great had been heavily opposed. He advised that the Alliance believed the FAR was justified under the point system.

Commissioner Smith expressed appreciation to the development team, and Mr. Tilbrook particularly, for going all over the beach to ensure everyone understood all the details of this project. He believed most of the concerns about the beach had been resolved because this Commission, the community, and the development community had worked together over several years to change development regulations to accommodate the beach vision. Commissioner Smith was pleasantly surprised that there was not a lot of opposition to this project.

Commissioner Smith said the issue about the exhaust fans had been addressed to his satisfaction. As far as the proposed building length, he did not object because it did not involve a big, long building along the beach, but had 40' "chunks" removed to allow for light and air. He believed this accomplished the intent of that regulation. Commissioner Smith said he had been very concerned about Leisure House because of the setback on that side, but it appeared the residents were satisfied.

Commissioner Smith did not think it was fair for area residents to have to look upon a construction site for a very long time. He wanted the developer to agree to provide irrigation and turf after the existing buildings were demolished if construction could not be commenced within 30 days. Mr. Tilbrook agreed the applicant could do that.

Commissioner Smith noted that there had been problems in the past with construction debris raining down on nearby vehicles, and he wanted the developer to address that issue as well. He wanted the applicant to provide free car washes to any resident who felt it was necessary. *Mr. Gary Glenewinkel*, of Centex Rooney, stated that the towers would be set back quite some distance from the roads, and tightly-meshed windscreens would be used to prevent dust and dirt from raining down from the structure. He said that having a car wash on the site would present liability issues, but cars would get dirty, and either detailers would clean the cars or tokens for a car wash would be provided. Commissioner Smith wanted these things provided at request, without negotiation.

Mayor Naugle thought Mr. Glenewinkel had just admitted that a crime would be committed because if debris from the building rained down on someone's car, the law was broken. He did not think giving out car washes was good enough and wanted a "wrap." Mayor Naugle stated that Rooney Construction had damaged his cornea with muriatic acid, and he had lost his vision for a time during construction of the jail. Further, his car finish had been permanently damaged during construction of The Palms, and a car wash could not address a finish that had been etched. Mayor Naugle wanted to require that the building be wrapped.

Mr. Glenewinkel said that every precaution would be taken to stop any debris from leaving the site. However, he could not guarantee that would never happen. Nevertheless, if it did, Mr. Glenewinkel said that he would take responsibility for it. Commissioner Smith asked if the building could be wrapped with "tiny mesh," up to at least a 3' level. Mr. Glenewinkel replied that was the plan.

Commissioner Smith advised that he was concerned about the FAR because one of the greatest changes made to the Code had been inclusion of parking garages in the calculation of FARs. Without that change, he believed the allowed FAR of this project would have been 3.5, and he wondered if the change had made this a less bulky building. Mayor Naugle noted that the garage had always been included in such calculations as a matter of interpretation. Commissioner Smith understood that an FAR of 4.6 was proposed, and that had caused him some concern, but the Code allowed a 20% in this respect. He felt that bonus should be eliminated from the Code in the future.

Commissioner Smith understood the applicant had offered to assist with mass transit improvements in the amount of \$100,000. He felt that was very generous, but he thought \$200,000 would be much more generous. Commissioner Smith believed that would be appropriate because if there was a well functioning transit system on the beach, it would benefit this project tremendously. Mr. Tilbrook announced that the applicant would double its contribution to \$200,000 for roadway and transit improvements, although it was difficult to "swallow at a public meeting." Commissioner Smith thanked the developer for being such a good corporate citizen.

Mayor Naugle agreed this was a beautiful building and the applicant had done a great deal to get along with the neighbors. However, he viewed this as a 661' building where only 200' was allowed. He understood that exceptions were possible, but he viewed exceptions on a much smaller scale. Mayor Naugle believed granting this exception would send the wrong message to the development community, and he pointed out that other area projects had been able to comply with that limitation. He also pointed out that the FAR was a decision for the Commission, and he thought this should go back to the drawing board.

Commissioner Moore did not think ordinances were the perfect method of addressing developments. He felt the best method was to evaluate projects on the basis of their design and impacts on surrounding areas, and based on a scale that would be pleasant for pedestrians. Commissioner Moore applauded the developers for providing a presentation that allowed for a "feel" for the proposed development, and he thought the same should be provided with respect to any development in the Regional Activity Center or in the beach area.

Commissioner Moore referred to the building length. He felt the truth of the matter was that this was one building, but the fact of the matter was that the design allowed for compatibility with the neighborhood. He believed this developer had done everything the City and the community wanted. Commissioner Moore pointed out that the applicant had acquired sufficient land for the project, and retail uses would be offered to make it inviting as a destination. In addition, landscaping was proposed that would provide a real tropical feeling, even on top of the garage and on the interior of the project.

Commissioner Moore believed the gaps in the building would provide for air and light, which was not something most developers had allowed for in the past. He thought the Architect should be applauded for this design, and he was pleased that the developer had gone out into the community and met with every potentially impacted entity to address their concerns. Commissioner Moore was also pleased to have a developer come in with a "sense of community."

Commissioner Moore referred to wrapping the building during construction. He thought that was required, so he did not understand why it was being requested this evening. The developer would have to wrap the building, and Commissioner Moore knew of no reason why this request should be denied. However, he encouraged even more landscaping if it was possible. Mr. Tilbrook advised that this was a very large site, so lots of landscaping could be provided. He stated that the landscaping proposed would be 10% to 20% more than that required by the Code, and that did not include the landscaping on top of the garage.

Commissioner Moore shared concerns about building height, but he felt this applicant had made every effort to build consensus about this project. He did not feel that "one size fit all," and he greatly preferred projects like this to those that just met minimum requirements. Commissioner Moore thought seeking properly tailored projects was the best route to take when it came to development.

Commissioner Katz agreed with Commissioner Moore. She believed this building was within the ABA zoning district, so the developer was within his rights to construct a 250' to 300' structure. She stated that she would be very disappointed if every building on the beach were the same height, and she felt this project fulfilled the goal of bringing a really high-quality resort to the beach area.

Commissioner Katz believed that in order to obtain creativity, some bonuses should be given in return, and she agreed the Architect had done a masterful job with this design. She felt the project provided all of the things everyone wanted on the beach, and she did not think it would give the feel of a “concrete canyon.” Commissioner Katz thought this was the type of project that would invite people to walk, shop and enjoy the outdoors in this area. She understood that some people did not want to see any more tall buildings on the beach, and perhaps the City Commission should consider regulations that discouraged more of that and encouraged some low-level development with certain incentives. Commissioner Katz did not object to the FAR in light of the benefits that would be derived by the community, and she preferred not to lock developers in.

Commissioner Hutchinson disclosed that she had discussed this item with Mr. Tilbrook and Mr. Adache. Commissioners Smith, Katz, and Moore had also spoken with them. Mayor Naugle had discussed the subject with Mr. Tilbrook, Ms. Diane Smart, and Mr. Steve Glassman.

Commissioner Hutchinson said she agreed a little with what everyone had said. She agreed the developer had done a nice job on the pedestrian levels, but she had not heard from staff about whether the project met or exceeded the landscaping requirements. Mr. Chatterton replied that the project certainly met the requirements, and he believed it exceeded them, but he did not have the calculations at hand. Commissioner Hutchinson commended the applicant for doubling the contribution for mass transit improvements, but she was concerned about the 200’ building limit requirement that was desired in the central beach district. She pointed out that this building would be 461’ longer than what was strongly desired in this area.

Commissioner Moore introduced a written resolution entitled:

RESOLUTION NO. 02-30

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, GRANTING A DEVELOPMENT PERMIT FOR THE CONSTRUCTION OF A HOTEL AND RESTAURANT, APPROVAL OF YARD MODIFICATIONS, FLOOR AREA RATIO AND MODIFICATION OF THE 200 FOOT EAST TO WEST LENGTH REQUIREMENT FOR A STRUCTURE ON PROPERTY LOCATED AT 3101 BAYSHORE DRIVE IN FORT LAUDERDALE, FLORIDA IN AN ABA AND NBRA ZONING DISTRICT AS SITE PLAN LEVEL IV DEVELOPMENT.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, and Moore. NAYS: Commissioner Hutchinson and Mayor Naugle.

Advisory Board Appointments (OB)

The City Clerk announced the appointees/reappointees who were the subjects of this resolution:

Community Services Board

Karin Batchelder

Nuisance Abatement Board (Alternate)

David Svetlick

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 02-31

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPOINTING BOARD MEMBERS AS SET FORTH IN THE EXHIBIT ATTACHED HERETO AND MADE A PART HEREOF.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

Air Pollution from Power Plants (OB)

A resolution was presented urging elected officials to enact legislation requiring substantial reductions in nitrogen oxide, sulfur dioxide, mercury and carbon dioxide air pollution from power plants.

Commissioner Hutchinson introduced a written resolution entitled:

RESOLUTION NO. 02-32

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA URGING FEDERAL AND STATE ELECTED OFFICIALS TO ENACT LEGISLATION REQUIRING SUBSTANTIAL REDUCTIONS IN NITROGEN OXIDE, SULFUR DIOXIDE, MERCURY AND CARBON DIOXIDE AIR POLLUTION FROM POWER PLANTS.

Which resolution was read by title only. Roll call showed: YEAS: Commissioners Katz, Smith, Moore, Hutchinson and Mayor Naugle. NAYS: none.

“Amistad” (OB)

Commissioner Moore advised that a request had been received from the “Amistad” for use of the laundry and shower facilities at Cooley’s Landing Marina by the crew. The City Manager advised that staff could handle that administratively.

At 10:55 P.M., Mayor Naugle adjourned the meeting.

Jim Naugle
Mayor

ATTEST:

Lucy Masliah
City Clerk